PS 8 (8/88)

## United States District Court DISTRICT COURT OF GUAM

FILED

for

FEB -7 2006

	THE DISTRICT OF GUAM			MARY L.M. MORAN CLERK OF COURT
U.S.A. vs:	JOHN V. CRUZ		Docket No.	CR 05-00053-003
	Petition for Action on Conditio	ns of Preti	rial Release	
COMES NOW	CARMEN D. O'MALLAN PRET			RIAL SERVICES OFFICER
	upon the conduct of defendant			
-	al release supervision by the Honorab			ibusan, Jr., Magistrate Judge
sitting in the court at under the following condition	Hagatna, Guam on the	24 <sup>th</sup>	date of	June , 20 <u>05</u>
-	ched Order Setting Conditions	of Releas	se filed on C	October 12, 2005.
	ENTING PETITION FOR ACT (If short insert here; if lengthy write of	n separate s	heet and attac	h)
and at that hearing, the a	RT WILL B148, order that a summons be defendant be held to answer or should not be modified, or for any	now cause	e why bail sh	ould not be revoked or why
ORDER OF COURT  Considered and ordered of tebruary, 20 06 and made a part of the recesse.	and ordered filed			fully, DOMC rmen D. O'Mallan S. Pretrial Services Officer Hagåtña, Guam
JOAQUIN V.E. MANIBUS	Angestal		Date:	February 6, 2006

U.S. MAGISTRATE JUDGE

## FOR THE TERRITORY OF GUAM

UNITED STATES OF	AMERICA, laintiff,	) CRIMINAL CASE NO. 05-00053-003
vs.		DECLARATION IN SUPPORT OF PETITION
JOHN V. CRUZ,	efendant.	) ) )

Re: Violation Report, Request for a Summons

I, U.S. Probation Officer Specialist Carmen D. O'Mallan, am the U.S. Probation Officer assigned to supervise the Court-ordered conditions of pretrial for John V. Cruz, and in that capacity declare as follows:

On June 24, 2005, the defendant made an initial appearance before Magistrate Judge Joaquin V. E. Manibusan, Jr. on a multi-count Indictment charging him with Conspiracy to Distribute Methamphetamine Hydrochloride, in violation of 21 U.S.C. § § 841(a)(1), (b)(1)(A)(viii), and 846; and Attempted Possession of Methamphetamine Hydrochloride with Intent to Distribute, in violation of 21 U.S.C. § § 841(a)(1), (b)(1)(A)(viii), and 846. He was charged along with co-conspirators Christopher M. Espinosa, Eric M. Aponik, and Jarett J. Elm. The defendant was released on June 24, 2005 on a personal recognizance with conditions. He is alleged to have violated the following condition:

**Special Condition:** The defendant shall submit to any method of testing required by the pretrial services office or the supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a wrist patch, a remote alcohol testing system, and/or any form of prohibited substance screening at testing.

On January 7, 16, and 20, 2006, Mr. Cruz failed to show for urinalyses. On January 20, 2006, in a telephonic conversation with Mr. Cruz, he stated that he had medical excuses for his failure to show for urinalyses on January 7 and 16, 2006, He failed to produce the excuses as instructed. Mr. Cruz subsequently failed to show for urinalysis later that day on January 20, 2006.

<u>Special Condition:</u> The defendant shall report to the probation officer as directed. Mr. Cruz failed to file a monthly supervision report in January 2006, and failed to report to the probation officer on January 9, 2006 as scheduled. He was initially scheduled to report in

DECLARATION IN SUPPORT OF PETITION Violation Report, Request for a Summons Re: CRUZ, John V. USDC Cr. Cs. No. 05-00053-003 February 6, 2006 Page 2

person on January 5, 2006, but called on that date to reschedule his appointment stating that he was sick with the flu. On January 9, 2006, his girlfriend, Tilda, contacted this officer and stated that Mr. Cruz started a new job with a construction company located in Merizo and would not be able to keep his appointment. On January 20, 2006, follow-up contact was again made with Mr. Cruz regarding his failure to report as instructed and failure to produce medical excises for his urinalyses "no shows". He agreed to come in with the excuses on January 23, 2006. On January 23, 2006, Mr. Cruz left a voice message stating that he would be late for his appointment as his car had overheated. Mr. Cruz failed to keep his appointment.

Mr. Cruz has been returned to the start of the drug testing program as a result of his noncompliance with the program. He has had "no shows" for urinalyses in the past, but was able to provide medical excuses for the absences. This officer has not been able to determine if Mr Cruz is employed as he has not maintained contact with this officer as instructed.

**Recommendation:** The Probation Officer respectfully requests that pursuant to 18 U.S.C. §3148, this matter be scheduled for a hearing and a summons be issued for the defendant's appearance at that hearing to determine if his bail should be revoked or modified.

I declare, under penalty of perjury, that the foregoing is true and correct, except those matters stated upon information and belief, and as to those matters, I believe them to be true.

Executed this \_\_\_\_\_ day of February 2006, at Hagatna, Guam, in conformance with the provisions of 28 U.S.C. § 1746.

Respectfully submitted,

FRANK MICHAEL CRUZ Chief JU.S. Probation Officer

Bv:

CARMEN D. O'MALLAN

U.S. Probation Officer Specialist

Reviewed by:

FRANK MICHAEL CRUZ

Chief U.S. Probation Officer

cc: Russell C. Stoddard, Assistant U.S. Attorney

Joaquin C. Arriola, Jr. Defense Attorney

File